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Chairman: Ms. Londono (Vice-Chairperson) ..... (Colombia)

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In the absence of Mr. Belinga-Eboutou (Cameroon), Ms. Londoño (Colombia), Vice-Chairperson, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 115: Elimination of racism and racial discrimination *(continued)*

(a) Elimination of racism and racial discrimination (A/58/3, A/58/18, A/58/80-E/2003/71 and A/58/313)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/58/324 and A/58/331)

Agenda item 116: Right of peoples to self determination *(continued)* (A/58/115 and A/58/180)

1. **Mr. Bernales Ballesteros** (Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination) presented under agenda item 116 his last report to the General Assembly (A/58/115). He cited the main concerns that had underlain his mandate and, referring to paragraphs 25-27, 31, 32, 34 and 35 of his report, reviewed the evolution of the situation in Africa and Latin America.

2. Referring to paragraphs 46 and 47 of his report, he recalled that, in view of gaps and weaknesses in the international legislation, the General Assembly had requested him, in resolution 57/196 of 18 December 2002, to propose in particular, as part of his work, a new legal definition of the term "mercenary". He described the essential elements of that new definition referring to sub-paragraphs (c), (d), (f), (g), (i) and (k) of paragraph 54 of his report and pointed out that the criterion of foreign nationality should be re-examined so that the nature and purpose of the tort for which a mercenary lent remunerated support should basically be the fundamental element of the definition.

3. Referring to paragraphs 55 and 59 of his report, he underscored the contribution of the two meetings of international experts convened by the Office of the United Nations High Commissioner for Human Rights to the formulation of a new legal definition addressing the participation of mercenaries in both international and domestic armed conflicts, over and above the mercenary as an individual agent, extending the definition to the concept of using mercenaries and linking that concept to the responsibility of the States and organizations involved in planning and executing mercenary activities, thereby broadening definitively the scope of Article 47 of Additional Protocol I (1977) to the Geneva Conventions of 1949, and considering mercenary activities in relation to the exercise of the right of peoples to self-determination and in all forms and variants - from operations aimed at destabilizing constitutional governments and illegal trafficking to terrorism and violation of fundamental rights.

4. In conclusion, the Special Rapporteur requested the General Assembly to distribute to the States Parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries the text of the proposed new definition of the term "mercenary" for examination and adoption.

5. **Mr. Amorós Núñez** (Cuba) said that the legal definition of the term "mercenary" proposed in the report (A/58/115) was the apex of the Special Rapporteur's mandate. Noting the complexity of the notions of "use of mercenaries", "mercenary act" and "criminal act", he requested the Special Rapporteur to explain in greater detail why the use of mercenaries was not merely a violation of the right of peoples to self-determination; and to clarify the viewpoint, set out in his report and in his introductory statement, concerning the issue of nationality.

6. **Mr. Bernales Ballesteros** (Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination) recalled that at the start of his mandate, established in 1987, the situation had been exceptionally difficult, especially in Africa, because of the South African apartheid regime and the existence of armed conflicts, particularly in Angola and in Mozambique. At that time, his activities had focused on the right to self-determination. Moreover, since early in his mandate he had received information on criminal activities prompted by different motives and on the involvement of many ex-servicemen who made the perpetration of such activities possible without the

direct liability of a State. Accordingly, mercenaries were recruited to carry out activities related to terrorism, trade in weapons or other types of trafficking. Many private security companies tapped into the abundant reserves of hundreds of thousands of soldiers demobilized in the wake of recent historic upheavals, raising lucrative private armies that operated across the world. That analysis was not based on conjecture but on factual observation.

7. The issue of nationality was a sensitive matter that had been debated at length, without reaching a consensus, in the two meetings of experts held in Geneva in 2001 and 2002 on the subject of mercenaries. Referring to paragraph (b) of Article 1 of the draft amendment to the definition of the term "mercenary" of the 1989 International Convention (A/58/115, Annex), the Special Rapporteur said that the double exception provided for was also based on facts. As to whether there were individuals ready to act against their own country on remuneration and by establishing connections with another State or an organization, the answer was affirmative. There were also cases of armed conflict in which mercenaries obtained a given nationality fraudulently to conceal their actual status.

8. **Mr. Endresen** (Norway) pointed out that, because of a technical error, Norway figured among the countries that associated themselves with the position of the European Union on the issue.

9. Speaking an agenda item 115, the representative on Norway said that the battle against racism and racial discrimination had to be fought at the national level, as the Durban Declaration provided, but coordinated international efforts were also vital. It was therefore unfortunate that the States had not been able to reach a common understanding on the Durban follow-up, the Working Group of Independent Experts on People of African Descent and the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action. Norway would continue to participate actively in those discussions to help to reach a consensus.

10. Norway welcomed the establishment of the Anti-Discrimination Unit in the Office of the High Commissioner for Human Rights and reaffirmed that all forms of discrimination, including discrimination based on gender, occupation and descent, should be eliminated.

11. The international community should continue to address discrimination based on religion - a cause of many conflicts in history - and counter it by promoting education, tolerance and dialogue.

12. Full realization of the human rights of minorities and indigenous peoples and full participation of those groups in society were indispensable to eliminating racial discrimination.

13. The Internet and modern communications technologies could be important vehicles for democracy and development but unfortunately it was also possible to misuse them to promote racial hatred and discrimination. The international community at large should therefore strengthen its cooperation to combat racist propaganda, including on the Internet.

14. Racism and discrimination could not be eliminated without focused long-term efforts by national authorities, including administrative and legislative measures and the establishment of specialized institutions. Norway had adopted an action plan focusing on various target areas and aimed particularly at eliminating ignorance - often the root of discrimination - through appropriate curriculum components and social programmes.

15. Norway urged all parties to reach a consensus on practical and efficient forms of action that could bring relief and protection to victims of racism, racial discrimination, xenophobia and related intolerance, and, while continuing their international efforts, to design and implement national measures against racism.

16. **Mr. Roshdy** (Egypt), recalling that the right to self-determination was an inalienable right enshrined in the United Nations Charter and confirmed in international instruments, stated that the right to resist foreign occupation and regain freedom was a legitimate right of all peoples in the world.

17. It was impossible to speak on the right to self-determination without referring to the predicament of Palestinian men, women and children who, under the yoke of occupation, were constantly the target of Israeli missiles, tanks and aircraft. Although fully aware of that situation, the international community failed to mobilize to help that oppressed people to defend its rights. One could well wonder what recourse was left to the Palestinians.

18. In three years, 3,000 Palestinians had been murdered and 24,000 injured. In the preceding three days, 21 persons had been killed. Repression only further inflamed the situation. The escalating violence, which would stop only when the occupation ended, was a sign of despair among the Palestinians.

19. The Egyptian delegation recalled that in resolution 46/51 the General Assembly had reaffirmed the right of peoples under colonial regimes to engage in legitimate combat against foreign occupation and to seek and receive support.

20. The Palestinian struggle against occupation could not be described as terrorist. It was the occupation of Palestinian territories that constituted terrorism, and the people were entitled to resist such an occupation. The repression of that legitimate resistance, under the false pretexts of self-defence and protection of settler colonies, also constituted terrorism.

21. Not the massacre of civilians but withdrawal from the occupied territories was the right self-defence. As long as the occupation continued, suffering would persist and legitimize Palestinian resistance. Whether the occupier liked it or not, Palestine would eventually become free, regardless of how long it took and of the difficulties encountered. Those who obstinately disregarded that reality should keep in mind Middle East history: eventually, the occupiers had always being chased out, robbed of their power and arrogance.

22. Never before had the Palestinians been as determined to free themselves and their combat would be crowned with success. Now the Palestinian people would determine its own future and none would be able to prevent it from exercising its legitimate rights. The time for Palestinian freedom and self-determination.

23. **Mr. Gzllal** (Libyan Arab Jamahiriya) said that policies based on racial discrimination constituted the worst betrayal of the principle of equality among men. The South African people had been a victim of such policies under apartheid and currently the Palestinian people, defenceless in occupied Palestine, were apparently subjected to the same practices by the Israeli occupation forces. The South Africans had eliminated the repugnant apartheid regime and soon the Palestinians would defeat the occupier and exercise their legitimate rights to self-determination and an independent State.

24. Racism (regardless of its particular bases and forms) was a phenomenon - combated by all civilized States and societies - which, under socio-economic and cultural pretexts, targeted racial, religious and cultural groups, particularly migrants and refugees. In some countries, racist theories led to the development of extremist groups that advocated racial superiority and carried out terrorist acts - in modern forms - against foreigners, particularly Arabs, Muslims and blacks. Xenophobic and racist patterns of behaviour could be observed in sports and also took the forms of violating domestic privacy, profaning cemeteries and desecrating places of worship. Some leaders referred to Islam in revolting terms betraying religious extremism and racism. Communication technology advances were unfortunately used to broadcast, particularly on the Internet, racist and xenophobic messages and ideas based on racial superiority. The Libyan Arab Jamahiriya supported the proposal of the Special Rapporteur (A/58/313) to negotiate an additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination to suppress racist propaganda.

25. It was vital to preserve a people's identity, values and historical rights - sources of inspiration in the fight against racism, resist policies conducive to subjugation, hegemony and intellectual spoliation, and denounce the racist character of unilateral international sanctions. Epidemics such as AIDS, malaria and tuberculosis, marginalization, social exclusion and wealth differentials contributed to racism, racial discrimination and xenophobia. The Libyan delegation urged the international community to implement the Durban Declaration and Programme of Action.

26. The right of peoples to self-determination was a time-honoured fundamental rights. National liberation movements had imposed its exercise in the face of colonialism, achieved independence and ensured membership in the United Nations. The principle was recognized under the various branches of law, including international humanitarian law. Many peoples had exercised that right - the United Nations currently numbered 191 Member States - and the Organization should further strive to enable the peoples who were still under foreign occupation to do the same. In particular, the Palestinian people must be enabled to establish an independent, consolidated and non-racist State on the entire Palestinian territory ensuring equality among all Palestinian citizens, regardless of

origin and religion. In the Libyan Arab Jamahiriya, the principle of self-determination was established by law. The country was party to all of the international conventions against racism and racial discrimination and all States acknowledged its activity in that area.

27. Every year, the report of the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination stated that the use of mercenaries was a major obstacle to the exercise of that right. The reason was that mercenary activities aimed at destabilizing or overturning the governments, infringing upon the territorial integrity and undermining the political unity of independent and sovereign States. Many torts committed by mercenaries escaped punishment because the legal definition of the term "mercenary" was vague. The Libyan Arab Jamahiriya, as a State Party to the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries, would examine carefully the new legal definition proposed by the Special Rapporteur. Combating the use of mercenaries was as important as combating terrorism and the peoples who were under foreign occupation should be enabled to exercise the right to self-determination.

28. **Mr. Bencherif** (Algeria) said that, since the establishment of the United Nations, the Organization had achieved successes in the fight against apartheid, racism and racial discrimination. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which had been held in Durban in 2001, and particularly the adoption of the Durban Programme of Action, had been an important step in the international community's fight against intolerance and racial hatred.

29. Referring to the report of the High Commissioner for Human Rights (A/58/324), according to which the various actors were at different stages in the implementation of the Durban Declaration and Programme of Action, the representative of Algeria said that it was much too early to assess the progress accomplished since the Conference but that racism and racial discrimination continued to rage across the world and to claim victims among migrant workers, non-nationals, refugees, asylum seekers and minorities.

30. Accordingly, there was cause for alarm at the upsurge of racist and xenophobic ideologies that had been thought long forgotten. They were described clearly in the excellent report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/58/313).

31. Hatred and intolerance should be eradicated and racist discourses - an insult to human intelligence and conscience - should not become commonplace. Algeria supported the reparation of past injustices such as slavery, foreign occupation and colonialism and opposed the boycott on the work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and the Working Group of Independent Experts on People of African Descent. That boycott could in fact be counterproductive, if interpreted as a denial of dutiful memory and as an instance of racial discrimination.

32. Algeria remained deeply committed to the right of peoples to self-determination, confirmed particularly in resolution 1514 (XV) of the General Assembly, and recalled the importance of the task of decolonization performed by the United Nations. Algeria had had cast off the colonial yoke and gained independence as part of that process. While the recent victory of the people of Timor-Leste was to be hailed, other peoples were still deprived of their inalienable right to self-determination and freedom.

33. Regarding the predicament of the Palestinians, who claimed the right to set up a State with Jerusalem as its capital, Algeria wished a comprehensive and definitive solution to the Israeli-Palestinian conflict according to the principle of "land for peace" and the national rights of the Palestinian people. Concerning Western Sahara, 28 years after the withdrawal of the old colonial power, the Saharan people could still not exercise their right to self-determination. Algeria reiterated its full support for the Peace Plan for Self-Determination of the People of Western Sahara submitted by the Secretary-General's Personal Envoy and endorsed by the Security Council. A just and definitive solution to the issue of Western Sahara in strict conformity with the right of the Saharan people would certainly ensure the necessary stability and concord in the Maghreb.

34. **Mr. Akasha** (Sudan) said that, like the international community, his country was concerned over the upsurge, in many regions of the world, of

racism, racial discrimination and xenophobia, particularly against immigrants, refugees and ethnic minorities.

35. To eliminate those scourges, it was necessary to strengthen the mechanisms of international cooperation, enhance awareness in the cultural and social areas, promote, on an international scale, the value of ethnic diversity and eradicate the concept of racial supremacy. Sudan was a party to the International Convention on the Elimination of All Forms of Racial Discrimination (particularly on the basis of religion, race or language) and devoted resources to that effort.

36. Sudan was in favour of an integral implementation of the Durban Declaration and Programme of Action, essential to combating racism, and supported the report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/58/313), including the view that the follow-up to the Durban Conference should be based on a twofold strategy: strengthening the promotion and implementation of pertinent legal instruments and studying the roots of xenophobia, racism and racial discrimination. The report also referred to the various forms of racism against Muslim and Arab populations after the terrorist attacks of 11 September 2001.

37. In line with the position adopted by the African Union, Sudan defended the right to self-determination, which was particularly significant to peoples under a colonialist yoke. The exercise of that right should never lead to the break-up of a State, interference in a State's domestic affairs or infringement upon its sovereignty or territorial integrity and must be correctly interpreted to forestall conflicts, threats to regional and international peace and security and additional suffering. In conclusion, the representative of Sudan urged the international community to give due consideration to the plight of the Palestinians - oppression, coercion and massacres - in the occupied territories and called for the establishment of a Palestinian State with Jerusalem as its capital.

38. **Mr. Sallam** (Saudi Arabia) said that, in the face of dangerous world problems such as racism, racial discrimination and xenophobia, the cooperation of all was indispensable. The role of the United Nations and its various organizations should be strengthened with a view to finding solutions to those problems and appropriate methods of work to ensure international peace and security.

39. Faithful to its Islamic principles and values, its system of government and its moderate policy, Saudi Arabia had affirmed in its national legislation the principle of non-discrimination in all its forms and, in November 1997, had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination. It condemned all fanatical practices, protected human rights and forbade torture. The law applied to men and women without exception and, in particular, Saudi Arabia ensured women the fundamental rights to work, health, social services and free education.

40. Moreover, the law allowed non-Muslim residents to practice their religion under Article 18 of the International Covenant on Civil and Political Rights (ICCPR) and with Article 1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The law provided for those restrictions to defend public policy, public health and public morality.

41. Saudi Arabia supported all efforts aimed at protecting human rights, hailed the Durban Declaration and welcomed the fact that the General Assembly had invited all States to implement at the national, regional and international levels the Work Programme of the Third Decade to Combat Racism and Racial Discrimination.

42. **Mr. Aguzzi Durán** (Venezuela) said that, above all, the Venezuelan Minister of Foreign Affairs had deposited, on 22 September 2003, with the United Nations Secretariat the instrument by which Venezuela recognized the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the International Convention on the Elimination of All Forms of Racial Discrimination. At the national and international levels, Venezuela had always clearly and firmly supported the combat against all forms of discrimination. It was a party to most of the relevant international legal instruments and equality of all before the law was enshrined in its Constitution.

43. The Office of the Defender of the People, one of the three bodies that form civil power in Venezuela, was responsible for promoting, defending and

monitoring the exercise of the rights and guarantees enshrined in the Constitution and in the international instruments on human rights and of the citizens' legitimate - collective and individual - rights. Concerning indigenous peoples' rights, the Defender of the People ensured that the State adopted measures designed to facilitate the access of those peoples to health and education services provided in their mother tongue, and that they were involved in decision-making regarding their land and mining- and forestry-related activities. Through the Minister of Labour, the Government had launched a series of reforms designed to protect workers from any anti-union practices and ensure them the right to strike.

44. The Venezuelan delegation was unaware of any mercenary activities in the Venezuelan territory, any participation of Venezuelan citizens in activities undermining the sovereignty of other States or any involvement of mercenaries in torts perpetrated in the country, but was concerned over the recent increase of kidnappings and other crimes committed by subversive organizations having their operational base abroad and linked to drug trafficking.

45. **Ms. Valle Camino** (Cuba), speaking on agenda item 115, said that her country, convinced that it was time to implement the proposals of the Declaration and the Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which had been held at Durban, South Africa, was ready for action and accordingly supported all relevant measures. The world was experiencing more elaborate forms of racism, racial discrimination and xenophobia than before. The phenomenon was more pronounced in the developed countries, where neo-fascist ideologies gained ground, advocating the superiority of some races and cultures and leading to violence, mainly against migrants. Cuba was deeply concerned over the adoption, by many industrialized countries, of laws whose implementation affected adversely the protection of the rights of migrants and asylum seekers.

46. Referring to other alarming occurrences mentioned in the report of the Special Rapporteur of the Commission on Human Rights (A/50/8/313), the Cuban delegation dwelled on the proliferation of Internet sites serving as a vehicle for racist and xenophobic propaganda, and was concerned over the fact that many industrialized countries had expressed reservations concerning Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination, which condemned in particular all propaganda and organizations drawing on ideas or theories based on the superiority of a race or group of a given colour or of a particular ethnic origin.

47. The inequitable distribution of wealth among and within the various countries was compounded by excessive market liberalization and globalization based on individualism, which was largely responsible for the exacerbation of marginalization and social exclusion. Muslim and Arab communities were stigmatized. In the United States, in particular, many hundreds of persons of Arab origin or Muslim faith were incarcerated since 11 September 2001. Telling figures could be cited. In the United States, Hispanics and North Americans of African origin accounted respectively for 45.7 and 42.5 of the population living below the poverty line, while among women prisoners North Americans of African origin were eight times more numerous than Anglo-Saxons.

48. The international community could not remain indifferent to the condition of victims of racism. Cuba called upon all of the competent bodies of the United Nations system to disseminate the Durban agreements and streamline them into the activities that they carried out under their respective mandates; and appealed to the well-intentioned political will of the governments of industrialized countries.

49. **Ms. Khalil** (Egypt), speaking on agenda item 115, said that Egypt associated itself with the statement made by Morocco on behalf of the Group of 77 and China on the combat against racism. Efforts in that area should be undertaken on a global scale. Egypt deplored the fact that too many people continued to live under domination despite all the declarations ascribing priority to the combat against racism.

50. Concerning particularly the conditions faced worldwide by persons of Arab origin and Muslim faith after the attacks of 11 September 2001, Egypt was impatiently looking forward to the presentation of the Special Rapporteur's study to the Commission on Human Rights at its 60th session, and suggested that the study should also be submitted to the General Assembly. In some cases, human rights were violated under the pretext of defending them. Egypt deplored the existence of discriminatory measures against Arabs and Muslims and the absence of a positive attitude towards them, referring to restrictions imposed on

members of those groups in airports and to limitations on their movement - which showed that political statements and actual everyday practices were in contradiction with each other.

51. Egypt was deeply concerned over the resurgence of racism, particularly in sports - which precisely defended the values of non-discrimination - and the emergence of new forms of discrimination against immigrants and refugees. Concerning the Palestinians, who were subjected to the worst forms of racism and whose fundamental rights, particularly the inalienable right to self-determination, were trampled on daily, Egypt was looking forward to the day when no reference would any longer need to be made to their plight.

52. All appropriate measures should be taken to implement the commitments contained in the Durban Declaration in accordance with the principles formulated therein to follow up on the relevant recommendations.

53. **Ms. Fusano** (Japan) said that, aware of its colonialist and belligerent past, her country was determined to act against all occurrences of arrogant nationalism and to promote cooperation, peace and democracy on an international scale. Education was important as a means of combating racism by dispelling ignorance and prejudices. Youth exchanges programmes were particularly beneficial and the Japanese Government had extensively developed such programmes.

54. Japan hailed the activities carried out by the Commission on Human Security and underscored the importance of cooperation among States, international bodies and civil society organizations for promoting security for all.

55. Racial or ethnic tensions had led to serious human-rights violations. Accordingly, co-existence and tolerance were fundamental and had to be strengthened through education.

56. The inalienable right to self-determination, enshrined in the United Nations Charter and reaffirmed in other instruments, was of key importance. Japan welcomed Timor-Leste's progress during its first year of independence in the areas of public administration, domestic security and relations with Indonesia and would continue to support efforts to further build the viability of that State.

57. The Japanese Government was deeply concerned over violence in the Middle East. Acts carried out on both sides were obstacles to the implementation of the road map. Israelis and Palestinians should display maximum restraint to avoid exacerbating the situation and bring violence to an end with the help of the international community. Japan was ready to lend political and economic support to any solution to the current crisis.

58. **Mr. Al-Qaisi** (Jordan) defined the right of a people to self-determination as a people's entitlement to live permanently on its territory and to chose its government and its future. That right, which in turn was the basis of the right to independence and sovereignty, prerequisites to all other rights, ultimately consisted in the natural right of any people to establish a State on its national territory. Ensuring the exercise of that right would guarantee international stability and peace. In the case of peoples under colonial or foreign occupation, absence of such guarantees led to human-rights violations. Accordingly, based on the United Nations principles and goals set out in articles 1, 55 and 56 of the Charter and in the Declaration on the *Granting of Independence to Colonial Countries and Peoples* (resolution 1514 (XV) of the General Assembly), Jordan reaffirmed the inalienable right of the Palestinian people to self-determination.

59. Jordan reiterated the necessity to resume the peace process in the Middle East and to provide for a Palestinian State with East Jerusalem as its capital. The President of the United States of America had conveyed his vision for the peace process on 24 June 2002 - and reaffirmed it at the Aqaba Summit in June 2003 - in line with the road map adopted by the Quartet for a comprehensive, just and sustainable peace according to the Security Council resolutions and the Arab Peace Initiative.

60. **Mr. Simancas** (Mexico) said that his country considered that it was vital to meet the obligations set out in the Durban Declaration and Programme of Action. The Mexican Government had supported the work of the Citizens' Committee to combat racial discrimination. That work had eventually led to drawing up a bill on discrimination and to the enactment of a federal law aimed at preventing and eliminating discrimination. The law had taken effect on 11 July 2003. It defined discriminatory social practices clearly, specifying the persons who were most vulnerable, and contained specific provisions for

women, indigenous peoples, persons with disabilities, children and older persons. It also provided for the establishment of a National Council for the prevention of discrimination, to be formed by a Constitutive Assembly consisting of citizens, representatives of the private and social sectors and academics. The goals of the National Council were to contribute to the social and democratic development of the country, carry out initiatives aimed at preventing and eliminating any discrimination, formulate and promote public policies in favour of equal opportunities and equal treatment for all persons in the national territory and coordinate the activities of federal executive authorities in the area of preventing and eradicating discrimination.

61. Mexico had hosted the International Forum for the promotion of non-discrimination, whose work had focused on the causes and effects of discrimination and on legislation, public policies and best practices for its prevention and elimination. Mexico had proposed a draft comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities. It urged all States to ensure the progress of negotiations on that convention and to sign and ratify on a priority basis the International Convention on Protection of Rights of All Migrant Workers and Members of Their Families.

62. **Mr. Lewis** (Antigua and Barbuda), speaking on agenda items 115 (a) and (b) on behalf of the 14 Member States of the United Nations that were members of the Caribbean Community (CARICOM), said that the people of the Caribbean were acutely aware of the ills associated with racism and racial discrimination and their lingering effects on the development of societies. The current manifestations of racism and racial discrimination were a social, cultural and political phenomenon born of wars, slavery and military conquests rather than naturally instinctive reactions of the human being, and the present inequitable social and economic conditions were caused in large part by those historical wrongs. CARICOM endorsed initiatives to address those inequities (speedy debt relief, the New Partnership for Africa's Development (NEPAD) and other initiatives under ongoing discussion by governments and civil society).

63. A classic illustration of the impact of racism on the development of a small State was observable in Haiti, the first independent republic of people of African descent, which would celebrate the bicentennial of its independence in 2004. The international community should assist in attempting to remedy Haiti's past and ensure its future.

64. CARICOM applauded the work of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance and his participation in a series of international, regional and national consultations, workshops, seminars and discussions, particularly the "Regional Workshop on Strategies for the adoption and Implementation of Affirmative Action Policies for Populations of African Descent in Latin America and the Caribbean" held in Montevideo, Uruguay in May 2003. CARICOM also noted the useful field missions undertaken by the Special Rapporteur to Guyana and Trinidad and Tobago to discuss inter-ethnic relations, and his recommendations to the General Assembly (A/58/313) in the areas of legislative, judicial, awareness and educational initiatives and issues related to the vulnerability of immigrants, refugees and non-nationals.

65. CARICOM congratulated the Office of the High Commissioner for Human Rights (OHCHR) on undertaking the broad range of responsibilities set forth in the Durban Declaration and Programme of Action, particularly assisting national governments in formulating national plans of action to combat racism. The efforts of the Office deserved active support by the international community.

66. CARICOM took particular note of the work undertaken by the Working Group of Independent Experts on People of African Descent which had met in late 2002 and early 2003 in Geneva and which had adopted conclusions on the need for data collection from a wide range of sources, on measures to ensure full and effective access to the justice system, on the elimination of racial profiling and on the development of community-level initiatives.

67. CARICOM fully supported the provisions contained in resolution 57/194 on the International Convention on the Elimination of All Forms of Racial Discrimination and would support the relevant draft resolution to be introduced at the current session. It also concurred with resolution 57/195, which called on States to draw up action plans for implementing the Durban Declaration and Programme of Action.

68. The concerns and interests of the indigenous peoples were an issue interrelated with the problems of

racism and racial discrimination. Indigenous groups had recently met in Durban, South Africa and expressed the view that a high-level independent truth and reconciliation commission should be set up, on the model of the commissions that had heard political crime confessions in South Africa in 1994. The aim would be to investigate the historical cases of violations related to the creation of parks and to produce impartial conclusions, which - with appropriate restitution mechanisms - would promote healing.

69. **Mrs. Molaroni** (San Marino), speaking on agenda item 115 (a) and (b), said that, although in principle her country concurred with the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression (A/CONF.189/PC.2/24) that the Internet was a unique tool for promoting human rights, in practice the use of the Internet admittedly had not always positive implications on human rights. That fact explained the current debate on regulating new technologies. San Marino condemned the use of the Internet to broadcast messages inciting to racial, religious or other hatred across national boundaries and to bypass laws banning discriminatory and hatred material. Regulations, however, could pose dangers of abuse where the rule of law and respect for human rights were weak. Government intervention should always be based on pertinent national legislation and applicable international standards and should be consistent with freedom of opinion and expression. At the same time, Internet service providers should have an obligation to prevent posting racist or discriminatory material. Accordingly, governments could encourage the Internet industry to provide improved filtering tools and rating systems.

70. San Marino had cooperated in publishing an Internet site with the Declaration of Human Rights in 331 languages (hosted on <www.unhchr.ch>), and paid tribute to the Swedish Government for promoting on the Internet a campaign to disseminate information about the Holocaust and draw conclusions from discussions on racism and human rights.

71. San Marino endorsed fully the principles of non-discrimination, supported unreservedly the implementation of the Third Decade to Combat Racism and Racial Discrimination and its revised Programme of Action and was convinced that cooperation and information exchange among the various organs and mechanisms of the United Nations, intergovernmental organizations and non-governmental organizations (NGOs) were essential to the fight against racism.

72. **Mr. Mugaas** (Observer for the International Federation of Red Cross and Red Crescent Societies (IFRC)), speaking on agenda item 115, said that the IFRC had been pleased to see that various organizations, such as the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), were devoting significant resources at regional and country levels to seeking ways of addressing the problems of racism and racial discrimination but was deeply concerned over the growth of extremism and the reduced readiness to combat exclusion, social inequality, economic differences, xenophobia and discrimination. Those facts confirmed the timeliness of the Programme of Action and Declaration adopted at the Durban Conference, but also showed that the work done since the adoption of the Convention on the Elimination of All Forms of Racial Discrimination had been insufficient.

73. Motivated by the principles of impartiality, neutrality and especially humanity - by no means confined to the boundaries of cultural, political, ethnical or religious differences -, the Federation had launched a global/local initiative to promote tolerance, non-violence and non-discrimination within the communities. Those issues, addressed at the 27th International Red Cross/Red Crescent Conference in 1999, would reappear for further consideration at the 28th International Conference in December 2003. The Federation aimed at building local capacities, centred on national organizations, to ensure that work was done in a context appropriate to local conditions and, to that purpose, made extensive use of trained volunteers. The Federation looked for partnerships and was therefore particularly pleased that its hope for programmes of joint action with national human rights institutions was close to fulfilment. Notable IFRC initiatives included a training initiative ("Action to Reduce Discrimination in Violence in the Community: Global / Local") and a variety of programmes launched by the Red Cross organizations of various countries (Norway, Bosnia-Herzegovina, United Kingdom, France, Sierra Leone and Democratic Republic of the Congo).

74 To share best practices and lessons learned, the Federation had inaugurated an extranet project (entitled "FedNet").

75 Most governments accepted readily that the national Red Cross or Red Crescent societies could make a valuable contribution to their own work against discrimination and hopefully there would be a common understanding that governments should initiate dialog with all civil society institutions capable of working with them against racism and discrimination.

76 **Ms. Hermoso** (Observer for the International Labour Organization (ILO)), speaking on agenda item 115 (b), said that ILO was preparing a plan of action for technical cooperation to eliminate discrimination at work. In that connection, ILO had tried to identify areas and vulnerable groups, such as indigenous peoples and migrants, that needed particular attention. ILO worked with governments and workers' and employers' associations, helping to draft legislation on equality standards, providing training, technical advisory services and capacity-building assistance, and conducting awareness-raising activities. ILO encouraged governments to ensure that existing legislation on discrimination and equality was fully enforced and to monitor the effectiveness of relevant policies and programmes.

77 ILO carried out activities at the regional level. In Latin America, consideration was being given to a major regional project on forced labour, discrimination and indigenous peoples in seasonal labour markets. An international conference would be held in Peru in the current year on the same subject. In Africa, ILO had been working with indigenous communities, particularly in Tanzania and Cameroon, and with pastoralists and hunter-gatherers in Kenya, ensuring that their traditional livelihoods provided enough job opportunities to reduce emigration and eliminate discrimination. In Asia, ILO had encouraged the development of new national frameworks in Korea and Thailand to prevent discrimination of migrant workers, while in Bangladesh and Indonesia it had proposed ways of protecting national workers abroad. In Europe, much of ILO's work had focused on the plight of the Roma in Eastern and Central Europe in view of the fact that their poor access to education and employment was not merely an economic, cultural or social problem but must also be approached from a human-rights perspective.

78 Other activities carried out by ILO included its participation in producing a publication on racism and tolerance under the auspices of the Office of the High Commissioner for Human Rights and UNESCO (OHCHR), and planned activities to follow up on the joint ILO/OHCHR initiative on "Discrimination Is Everybody's Business".

Statements in exercise of the right of reply

79 **Mr. Kadiri** (Morocco), addressing the reference to the Sahara issue in Algeria's statement, said that Morocco had clearly stated its position on the issue of Moroccan Sahara in the debates that the Fourth Committee had devoted to that issue two weeks earlier. Morocco considered the issue as a regional geopolitical dispute between Morocco and Algeria. The Fourth Committee, in the resolution that it had adopted at the current session, had encouraged the parties to negotiate a reciprocally acceptable political solution to the issue. Morocco drew the Committee's attention to Algeria's mistaken interpretation of Security Council resolution 1495 (2003), which made support for the peace plan submitted by the Personal Envoy of the Secretary-General contingent upon acceptance and agreement of all parties. That agreement should be reached through political negotiations that had not yet taken place.

80 **Mr. Bencherif** (Algeria) replied that the Western Sahara question was a decolonization issue for which the United Nations had provided a peace plan and designated a Personal Envoy. Regarding the resolution invoked by Morocco, the representative of Algeria pointed out that he had referred to resolution 1514 (XV), which confirmed the right to self-determination.

81 **Mr. Kadiri** (Morocco), referring again to the affirmation, contained in the statement of Algeria, that Algeria reiterated its full support for the Peace Plan for Self-Determination of the People of Western Sahara submitted by the Secretary-General's personal envoy and endorsed by the Security Council, said that it constituted a mistaken interpretation of the content of resolution 1495 (2003), which, he repeated, made support for the peace plan submitted by the Personal Envoy of the Secretary-General contingent upon acceptance and agreement of all parties and that the agreement should be reached through political negotiations that had not yet taken place.

82 **Mr. Bencherif** (Algeria) replied that Morocco was free to chose any interpretation that it liked but Algeria denied the allegation, repeated many times by

the Moroccan delegation, aimed at turning the Sahara question into an Algerian-Moroccan problem, while it was a problem of decolonization and the United Nations had determined which were the parties to the conflict.

The meeting rose at 12.45 p.m.